

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action of January 12, 2009. Reconsideration and allowance of the application in view of the amendment made above and the remarks to follow are respectfully requested.

Claims 1-9 and 11-20 are currently pending in the Application. By means of the present amendment, the claims are amended including to correct certain informalities noted upon review of the claims. By these amendments, the claims are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Final Office Action, claims 1, 3-5, 8, 9 and 12-20 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,195,701 to Kaiserswerth ("Kaiserswerth") in view of a publication entitled "Operating System Concepts" by Siberschatz ("Siberschatz"). Claims 2 and 11 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kaiserswerth in view of Siberschatz in further view of U.S. Patent Publication No.

2001/0026558 to Kamiya ("Kamiya"). Claim 6 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kaiserswerth in view of Siberschatz in further view of U.S. Patent No. 7,150,017 to Vogl ("Vogle"). Claim 7 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kaiserswerth in view of Siberschatz in further view of U.S. Patent No. 6,374,405 to Willard ("Willard"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-9 and 11-20 are allowable over Kaiserswerth in view of Siberschatz alone and in view of Kamiya, Vogle and Willard for at least the following reasons.

It is undisputed that Kaiserswerth does not disclose or suggest "scheduling only the schedulable component that can contribute at the total earliest time to the output of said real time system." (See, Final Office Action, page 3, lines 9-11.)

Siberschatz is cited to cure this deficiency in Kaiserswerth but it is respectfully submitted that reliance on Siberschatz is misplaced. The Final Office Action has taken a position that (emphasis added) "the scheduling algorithm for scheduling the execution of multiple processes on a single CPU is equivalent to 'scheduling only the schedulable component that can contribute at the total earliest time to the output of said real time system' in

the presently claimed invention." (See, Final Office Action, page 17, lines 7-10.) This position may hold true for a very simplified system wherein the output of the processor is the output of the system and as such, lends itself to the simplified assumptions that may be suitable for textbook applications, however, it is respectfully submitted that this has little to do with real systems wherein components are oftentimes interrelated such that an output of one component depends on an output of another component.

It is respectfully submitted that Silberschatz (emphasis added) "associates with each process the length of the latter's next CPU burst. When the CPU is available, it is assigned to the process that has the smallest next CPU burst." (See, Silberschatz, page 158, section 6.3.2, lines 2-4.) Silberschatz makes clear that a (emphasis added) "more appropriate term [for the scheduling of Silberschatz] would be the shortest next CPU burst, because the scheduling is done by examining the length of the next CPU burst of a process ..."

Accordingly, Silberschatz merely schedules components based on the CPU burst time of the components irrespective of whether the components contribute to the output of the real time system. In a system wherein the output of the CPU is the output of the system or

wherein processes are not related, this may lead to identifying which process can contribute to an output soonest, but in a system wherein processes are interrelated, the system of Silberschatz merely identifies the components that take the least time to be processed. It is respectfully submitted that Silberschatz makes no distinction between processes that can contribute at the total earliest time to the output of the real time system and processes that do not.

Accordingly, the method of claim 1 is not anticipated or made obvious by the teachings of Kaiserswerth in view of Siberschatz. For example, Kaiserswerth in view of Siberschatz does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "identifying possible paths of each schedulable component that the data elements have to be processed to reach an output of said system from each said schedulable component, wherein at least one of the possible paths includes a plurality of schedulable components, and wherein an output of one of the plurality of schedulable components depends on an output of another of the plurality of schedulable components; determining for each schedulable component the earliest time on which said schedulable component can contribute to the output of

said system, scheduling only the schedulable component that can contribute at the total earliest time to the output of said real time system" as recited in claim 1, and as similarly recited by each of claims 8 and 18. Kamiya, Vogle and Willard are cited for allegedly showing different features and do not cure the noted deficiencies of Kaiserswerth in view of Siberschatz.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 8 and 18 are patentable over Kaiserswerth in view of Siberschatz alone and in view of Kamiya, Vogle and Willard and notice to this effect is earnestly solicited. Claims 2-7, 9, 11-17 and 19-20, respectively depend from one of claims 1, 8 and 18 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration and allowance of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to

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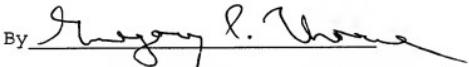
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submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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